



General Services Administration
Office of General Counsel
Washington, DC 20405

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

November 20, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Subject: Toll Free Service Access Codes,
CC Docket No. 95-155.

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Enclosed please find the original and nine copies of the General Services Administration's Reply Comments for filing in the above-referenced proceeding. Copies of these filing have been served on all interested parties.

Sincerely,

Jody B. Burton
Assistant General Counsel
Personal Property Division

Enclosures

cc: International Transcription Service, Inc.

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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In the Matter of)
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Toll Free Service Access Codes)
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REPLY COMMENTS OF THE
GENERAL SERVICES ADMINISTRATION

EMILY C. HEWITT
General Counsel

VINCENT L. CRIVELLA
Associate General Counsel
Personal Property Division

MICHAEL J. ETTNER
Senior Assistant General Counsel
Personal Property Division

JODY B. BURTON
Assistant General Counsel
Personal Property Division

Economic Consultant:

Snively, King & Associates
1220 L Street, N.W.
Washington, D.C. 20005

GENERAL SERVICE ADMINISTRATION
18th & F Streets, N.W., Room 4002
Washington, D.C. 20405

November 20, 1995

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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CC Docket No. 95-155

**REPLY COMMENTS OF THE
GENERAL SERVICES ADMINISTRATION**

The General Services Administration ("GSA"), on behalf of the Federal Executive Agencies, submits these Reply Comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM"), FCC 95-419, released October 5, 1995. In this NPRM, the Commission requested comments and replies on various proposals concerning toll free access codes.

I. INTRODUCTION

On November 1, 1995, GSA submitted Comments in this proceeding commending the Commission for its proposals to assure that the transition to the new toll free access code ("888") goes smoothly.¹ GSA supported the Commission's proposal to grant current holders of toll free access code ("800") numbers a right of first refusal which, if exercised, would bar the assignment of equivalent 888 numbers to other users.² GSA also

¹ Comments of GSA, p .2.

² Id., pp. 2-3.

recommended that the 888 equivalent of high volume numbers not be assigned until the public has grown accustomed to multiple toll free access codes.³

A wide variety of other parties also commented on these issues, including:

- The United States Telephone Association ("USTA") and twelve local exchange carriers ("LECs") and LEC representatives;
- The Competitive Telecommunications Association ("CompTel") and twelve interexchange carriers ("IXCs") and IXC representatives;
- The Personal Communications Industry Association and three competitive access providers ("CAPs"); and
- The 800 Users Coalition ("Coalition") and twenty-three individual users and user representatives.

In these Reply Comments, GSA will respond to the comments and proposals of these parties.

II. The Commission Should Allow Users To Register Their Mnemonic Representations.

The Commission invited comments on whether the current holders of 800 numbers should be granted a right of first refusal which, if exercised, would bar the assignment of 888 numbers to other users.⁴ The Commission recognizes that vanity toll free numbers, such as "1-800-THE CARD," have great value to the holder. Many holders

³ Id., pp. 3-4.

⁴ NPRM, para. 44.

have invested substantial resources in advertising their 800 numbers and establishing the identity of their mnemonic representations. As GSA pointed out, some 800 numbers, such as "1-800-TAX-1040," effectively perform a public service by virtue of their ease of recognition.⁵ Not surprisingly, most commenting users supported the Commission's proposal.⁶ The Coalition states:

The viability of the toll free system depends on the protection of "sensitive" 800 numbers -- 800 numbers (usually widely disseminated) are crucial to the operation of the holder's business....Regardless of their function, these numbers must be protected.⁷

The LECs and CAPs, on the other hand, are strongly and unanimously opposed to the Commission's proposal to grant current 800 number holders a "right" of first refusal.⁸ USTA summarizes its position as follows:

Such a measure would be contrary to a sound policy precedent that users have no property rights in numbers, and contribute to a "gold rush" mentality regarding the 888 code. Such a measure could also encourage confusion where subscribers might otherwise correctly identify that numbers in different codes are different.⁹

A survey by the SMS/800 Number Administrative Committee ("SNAC") indicates that fully 24 percent of current 800 number holders would seek replication of their 800

⁵ Comments of GSA, pp. 2-3.

⁶ See, e.g., Comments of the Weather Channel, Inc., pp. 3-5; Aeronautical Radio, Inc., pp. 4-5; The American Petroleum Institute, pp. 4-5.

⁷ Comments of Coalition, p. ii.

⁸ See, e.g., Comments of The Ameritech Operating Companies, p. 31; BellSouth Telecommunications, Inc., p. 15; MFS Communications Company, Inc., pp. 9-10.

⁹ Comments of USTA, p. i.

number in the 888 toll free access code.¹⁰ The LECs contend that such replication would be a serious waste of valuable numbering resources and cause the rapid depletion of the 888 code and, indeed, subsequent toll free access codes.

The LECs make their point well. As many of them emphasize, it is not the number itself, but its mnemonic representation which is of value. As the NYNEX Telephone Companies ("NYNEX") accurately state, the number 843-2273, which "spells" THE CARD, also can be used to spell THE BARD, THE CASE, THE ACRE and other phrases.¹¹ The Southwestern Bell Telephone Company ("SWBT") concludes:

SWBT believes that emphasis by the holders of 800 numbers should be on protecting the rights of the advertised words (e.g. THE-CARD) rather than the numbers.¹²

U S West Communications, Inc. ("U S West") proposes a simple, but effective, solution to the problem posed by the possible use of replicated mnemonic representations by ill-intentioned 888 subscribers:

This problem will be eliminated if the Commission rules that 888 subscribers not be allowed to advertise mnemonic representations of 800 numbers currently in existence. This ruling should apply to all future toll free codes. Such a ruling would eliminate a potential rash of litigation on trademark/service mark infringement and protect the interests of current 800 subscribers. It would also remove the attractiveness of number brokering and the potential fraudulent use of matching mnemonic representations of 800 numbers already in use. Most importantly, it would reduce the incentive for 800 subscribers to foreclose the use by

¹⁰ Comments of SNAC, p. 17.

¹¹ Comments of NYNEX, p.7.

¹² Comments of SWBT, p. 17.

others of numbers already in short supply.¹³

Under U S West's proposal, the Commission would maintain a list of registered mnemonic representations, such as THE CARD, which would preclude their use by new toll free access code subscribers.¹⁴

GSA believes that U S West has proposed an elegant solution to this contentious issue. Users will be protected under this proposal, but valuable number resources will not be unnecessarily squandered in the process. GSA urges the Commission to adopt U S West's proposals and allow toll free access code holders to register the mnemonic representations of their numbers.

III. Equivalents to High Volume Numbers Should Not Be Immediately Assigned.

The Commission also invited comment on steps which could be taken to mitigate the effect of the large quantities of misdialed numbers which can be expected until the public becomes accustomed to 888 as a second toll free access code.¹⁵ In its Comments, GSA recommended that high volume 800 numbers be flagged, and the assignment of matching 888 numbers be blocked until these numbers are needed to meet demand.¹⁶ GSA also recommended that new high volume users be assigned 800 numbers that become available through normal turnover, so that their 888 equivalents,

¹³ Comments of U S West, p. 21.

¹⁴ Id., pp. 21-24.

¹⁵ NPRM, para. 47.

¹⁶ Comments of GSA, p. 4.

if unassigned, could be left unassigned until they are needed to meet demand.¹⁷

Some commenting parties consider this problem either speculative or of little importance.¹⁸ Bell Atlantic, however, states:

This is not a trivial concern, as some residential customer would surely be surprised to receive American Express' 800 bill.¹⁹

The Coalition agrees, and states:

One Coalition member's sensitive 800 numbers receive an average of 40 million minutes of calls each year. If the equivalents of the member's 800 numbers are assigned in the 888 SAC to a new entrant, say a small business anticipating 4,000 minutes of toll-free calls per month, the new entrant's toll-free service could be clogged with thousands of misdialed calls per month.

This scenario is not farfetched. American Airlines currently has assigned to it the most commonly misdialed variations of its primary ticket reservation and customer service 800 number. Although misdials to these number variations account for only a fraction of American Airlines' total calling volumes, that translates into nearly 60,000 calls per month, enough to drown most toll-free users if the cost of the calls does not bankrupt them first.²⁰

GSA urges the Commission to take the problem of misdialed numbers seriously and implement the steps GSA has proposed to minimize the effect of this problem on toll free access code users during the transition to the 888 access code.

¹⁷ Id.

¹⁸ See, e.g., Comments of Paging Network, Inc., p. 15; MCI Telecommunications Corporation, p. 18; LCI International, Inc., pp. 9-10.

¹⁹ Comments of Bell Atlantic, p. 10.

²⁰ Comments of Coalition, p. 15 (footnote deleted).

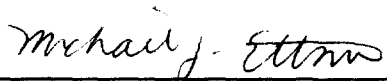
IV. CONCLUSION

As the agency vested with the responsibility for acquiring telecommunications services on a competitive basis for use of the Federal Executive Agencies, GSA urges the Commission to establish procedures as described herein to limit the adverse impact of misdialed numbers and allow current holders of 800 numbers to register their mnemonic representations.


Respectfully submitted,

EMILY C. HEWITT
General Counsel

VINCENT L. CRIVELLA
Associate General Counsel
Personal Property Division



MICHAEL J. ETTNER
Senior Assistant General Counsel
Personal Property Division



JODY B. BURTON
Assistant General Counsel
Personal Property Division

GENERAL SERVICES ADMINISTRATION
18th & F Streets, N.W., Rm. 4002
Washington, D.C. 20405
(202) 501-1156

November 20, 1995

CERTIFICATE OF SERVICE

I Josy B. BURTON do hereby certify that copies of the foregoing "Reply Comments of the General Services Administration" were served this 20th day of November, 1995, by hand delivery or postage paid to the following parties:

Kathleen M. H. Wallman
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 500
Washington, D.C. 20554

James D. Schlichting
Chief, Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
2000 L Street, N.W., Room 812
Washington, D.C. 20554

International Transcription Service, Inc.
Suite 140
2100 M Street, N.W.
Washington, D.C. 20037

Paul Schwedler, Esquire
Asst. Regulatory Counsel, Telecommunications
Defense Info. Agency, Code AR
701 South Courthouse Road
Arlington, VA 22204-2199

Edith Herman
Senior Editor
Communications Daily
2115 Ward Court, N.W.
Washington, D.C. 20037

SERVICE LIST
(Cont.)

Telecommunications Reports
11th Floor, West Tower
1333 H Street, N.W.
Washington, D.C. 20005

Richard B. Lee
Senior Consultant
Snively, King & Assoc., Inc.
1220 L Street, N.W., Suite 410
Washington, D.C. 20005

Mary McDermott
U.S. Telephone Association
1401 H Street, NW
Suite 600
Washington, DC 20005

David Cosson
National Telephone Cooperative
Association
2626 Pennsylvania Ave., N.W.
Washington, D.C. 20037

Joe D. Edge
Drinker Biddle & Reath
901 Fifteenth Street, N.W.
Suite 900
Washington, D.C. 20005

John V. Kenny
U.S. Strategies Corp
1055 N. Fairfax Street
Suite 201
Alexandria, VA 22314

Gregory L. Cannon
Attorney for U S West
Communications, Inc.
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036

Eugene J. Baldrate
Southern New England
Telephone Company
227 Church Street
New Haven, CT 06506

Robert M. Lynch
Attorney for Southwestern Bell
Telephone Company
One Bell Center, Suite 3520
St. Louis, MO 63101

Gary L. Phillips
Attorney for Ameritech
1401 H Street, N.W.
Suite 1020
Washington, D.C. 20005

David J. Gudino
GTE Service Corporation
1850 M Street, N.W.
Suite 1200
Washington, D.C. 20036

Sarah Rubenstein
Pacific Bell and Nevada Bell
140 New Montgomery Street
Room 1522A
San Francisco, CA 94105

SERVICE LIST
(Cont.)

John M. Goodman
Attorney for the Bell Atlantic
Telephone Companies
1133 20th Street, N.W.
Washington, D.C. 20036

Lisa M. Zaina
OPASTCO
21 Dupont Circle, N.W.
Suite 700
Washington, D.C. 20036

William L. Balcerski
NYNEX Telephone Companies
1111 Westchester Avenue
White Plains, NY 10604

Richard S. Whitt
WORLDCOM, Inc.
d/b/a LDDS WorldCom
1120 Connecticut Avenue, N.W.
Washington, D.C. 20036

Charles H. Helein
Helein & Associates, P.C.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

Rachel J. Rothstein
Cable & Wireless, Inc.
8219 Leesburg Pike
Vienna, VA 22182

Douglas W. Kinkoph
LCI International, Inc.
8180 Greensboro Drive
Suite 800
McLean, VA 22102

Mark C. Rosenblum
AT&T Corporation
Room 3244Jl
295 North Maple Avenue
Basking Ridge, NJ 07920

Charles C. Hunter
Attorney for Telecommunications
Resellers Association
Hunter & Mow, P.C.
1620 I Street, N.W., Suite 701
Washington, D.C. 20006

Leon M. Kestenbaum
Sprint Corporation
1850 M. Street, N.W.
Suite 1110
Washington, D.C. 20036

Loretta J. Garcia
MCI Telecommunications Corporation
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Susan Drombetta
Scherers Communications Group, Inc.
575 Scherers Court
Worthington, OH 43085

Genevieve Morelli
The Competitive Telecommunications
Association
1140 Connecticut Ave., N.W., Suite 220
Washington, D.C. 20036

SERVICE LIST
(Cont.)

Cheryl A. Tritt
Morrison & Foerster
2000 Pennsylvania Avenue., N.W.
Suite 5500
Washington, D.C. 20006

J. Kristen Liesemer
Unitel Communications, Inc.
200 Wellington Street West
Toronto, Ontario M5V 3G2

Roy L. Morris
AllNet Communication Services, Inc.
1990 M Street, Suite 500
Washington, D.C. 20036

Carl W. Northrop
700 Thirteenth Street, N.W.
Suite 700
Washington, D.C. 20005

Mark Stachiw
AirTouch Paging
Three Forest Plaza
12221 Merit Drive, Suite 800
Dallas, TX 75251

Judith St. Ledger-Roty
Reed Smith Shaw & McClay
1301 K Street, N.W.
Suite 1100 East Tower
Washington, D.C. 20005

Edwin N. Lavergne
Attorney for Weather Channel, Inc.
Ginsburg, Feldman and Bress, Chartered
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036

Andrew D. Lipman
Swidler & Berlin, Chartered
3000 K Street, N.W.
Washington, D.C. 20007

David R. Poe
LeBoeuf, Lamb, Greene &
McRae, L.L.P.
1875 Connecticut Ave., N.W., Ste. 1200
Washington, D.C. 20009

Glen B. Manishin
Attorney for NextLink, Inc.
Blumenfeld, Cohen
1615 M Street, N.W., Suite 700
Washington, D.C. 20036

Mark J. Golden
Personal Communications Industry
Association
1019 19th Street, N.W., Suite 1100
Washington, D.C. 20036

Susan M. Miller
ATIS
1200 G Street, N.W.
Suite 500
Washington, D.C. 20005

Colleen Boothby, Esq.
Levine, Blaszak, Block & Boothby
1300 Connecticut Avenue, N.W.
Suite 500
Washington, D.C. 20036

Joel DeFabio
2121 Ponce De Leon Boulevard
Suite 430
Coral Gables, FL 33134

SERVICE LIST
(Cont.)

Eric Fishman
Attorney for TLDP Communications, Inc.
Fletcher, Herald & Hildreth, PLC
1300 North 17th Street, 11th Floor
Rosslyn, VA 22209

W.E. Miller, Jr.
Telecompute Corporation
1275 K. Street, N.W.
Suite G-9
Washington, D.C. 20005

Lawrence F. Chesto
Aeronautical Radio, Inc.
2551 Riva Road
Annapolis, MD 21401

Glenn S. Richards
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006

Catherine Wang
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007

Wayne V. Black
Attorney for American Petroleum
Institute
Keller and Heckman
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001

Albert Halprin
Halprin, Temple, Goodman & Sugre
1100 New York Avenue, N.W., Suite 650
Washington, D.C. 20005

T. Michael Jankowski
Attorney for American Car
Rental Association
Collier, Shannon, Rill & Scott
3050 K Street, N.W.
Washington, D.C. 20007

Glen A. Payne
Invesco Funds Group, Inc.
7800 East Union Avenue
Denver, CO 80237

Christopher G. McCann
Attorney for 1-800-FLOWERS
1600 Stewart Avenue
Westbury, N.Y. 11590

Gregory M. Casey, Esq.
Telemation International, Inc.
6707 Democracy Boulevard
Suite 800
Bethesda, MD 20817

Jeffrey D. Knowles, Esq.
Attorney for NIMA International
Venable, Baetjer, Howard & Civiletti
1201 New York Avenue, N.W.
Washington, D.C. 20005

Wayne C. Rapp
Crestar Bank
7818 Parham Road
Richmond, VA 23294

SERVICE LIST
(Cont.)

Ian D. Volner
Attorney for Direct Marketing Association
Venable, Baetjer, Howard & Civiletti
1201 New York Avenue, N.W., Ste. 1000
Washington, D.C. 20005

A handwritten signature in cursive script, reading "Kelly B. Watson", is written over a solid horizontal line.